

SENATE BILL NO. 165

INTRODUCED BY J. BRUEGGEMAN

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA DEFERRED DEPOSIT  
6 LOAN ACT; INCLUDING DEFERRED DEPOSIT LENDERS IN THE DEFINITION OF REGULATED LENDERS;  
7 INCREASING LICENSING FEES; REMOVING THE REQUIREMENT THAT THE DEPARTMENT OF  
8 ADMINISTRATION ANNUALLY EXAMINE EACH DEFERRED DEPOSIT LENDER'S OPERATION; MODIFYING  
9 BOOKKEEPING REQUIREMENTS FOR DEFERRED DEPOSIT LENDERS; PROHIBITING ADDITIONAL  
10 DEFERRED DEPOSIT LOANS TO CONSUMERS WITH AN OUTSTANDING DEFERRED DEPOSIT LOAN;  
11 AUTHORIZING THE DEPARTMENT TO CONDUCT INVESTIGATIONS AND ISSUE SUBPOENAS AND CEASE  
12 AND DESIST ORDERS; AUTHORIZING THE DEPARTMENT TO SEEK COURT-ORDERED INJUNCTIONS;  
13 AND AMENDING SECTIONS 31-1-111, 31-1-702, 31-1-703, 31-1-705, 31-1-706, 31-1-711, 31-1-712, 31-1-713,  
14 31-1-714, 31-1-715, 31-1-721, AND 31-1-723, MCA."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17  
18 **Section 1.** Section 31-1-111, MCA, is amended to read:

19 **"31-1-111. Definition of regulated lender.** The term "regulated lender", as used in 31-1-112 and  
20 31-1-116, means:

21 (1) a bank, building and loan association, savings and loan association, trust company, credit union,  
22 credit association, consumer loan licensee, deferred deposit loan licensee, development corporation, bank  
23 holding company, or a mutual or stock insurance company organized pursuant to state or federal statutory  
24 authority and subject to supervision, control, or regulation by:

25 (a) an agency of the state of Montana; or

26 (b) an agency of the federal government;

27 (2) a subsidiary of an entity described in subsection (1);

28 (3) a Montana state agency or a federal agency that is authorized to lend money;

29 (4) a corporation or other entity established by congress or the state of Montana that is owned, in whole  
30 or in part, by the United States or the state of Montana and that is authorized to lend money."

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2           **Section 2.** Section 31-1-702, MCA, is amended to read:

3           **"31-1-702. Purpose -- rules -- fees.** (1) The purpose of this part is to protect consumers who enter into  
4 short-term, high-rate loans with lenders from abuses that occur in the credit marketplace when the lenders are  
5 unregulated.

6           (2) The department may adopt rules to implement the provisions of this part. The rules may include but  
7 are not limited to rules establishing forms and procedures for licensing, rules pertaining to acceptable practices  
8 at a business location, rules establishing disclosure requirements, and rules establishing complaint and hearing  
9 procedures.

10           (3) All fees collected pursuant to the provisions of this part must be deposited in the department's special  
11 revenue account to be used by the department in carrying out its supervisory functions under this part."

12

13           **Section 3.** Section 31-1-703, MCA, is amended to read:

14           **"31-1-703. Definitions.** For the purposes of this part, the following definitions apply:

15           (1) "Account" means any banking, checking, credit union, commercial, savings, savings and loan,  
16 brokerage, investment, or other kind of depository account held by a consumer.

17           (2) "Check" means a negotiable instrument, as defined in 30-3-104, that is drawn on a state or federal  
18 bank, credit union, or savings and loan association and is payable on demand at the maturity of a deferred  
19 deposit loan.

20           (3) "Consumer" means a natural person who, singly or jointly with another natural person, enters into  
21 a deferred deposit loan.

22           (4) "Deferred deposit lender" or "licensee" means a person engaged in the business of making deferred  
23 deposit loans.

24           (5) "Deferred deposit loan" means an arrangement, including all representations made by the deferred  
25 deposit lender whether express or implied, in which:

26           (a) a person accepts a check dated on the date on which the check is written and agrees to hold the  
27 check for a period of days prior to deposit or presentment;

28           (b) a person accepts a check dated subsequent to the date on which the check is written and agrees  
29 to hold the check for deposit or presentment until the date written on the check; or

30           (c) a person accepts written authorization from a consumer to electronically deduct from the consumer's

1 account on a specific date the amount of the loan and fees that are authorized under this part.

2 (6) "Department" means the department of administration.

3 (7) "Person" means a natural person, sole proprietorship, firm, partnership, corporation, or other entity."

4

5 **Section 4.** Section 31-1-705, MCA, is amended to read:

6 **"31-1-705. License -- business locations -- rules.** (1) A person may not engage in or offer to engage  
7 in the business of making deferred deposit loans unless licensed by the department. A license may be granted  
8 to a person located within the state or to a person located outside of the state who uses the internet, facsimiles,  
9 or third persons to conduct transactions with consumers in this state.

10 (2) An applicant for a license to engage in the business of making deferred deposit loans shall pay to  
11 the department a license application fee of ~~\$375~~ \$500.

12 (3) (a) The department may not issue or renew a license unless findings are made that:

13 (i) the financial responsibility, experience, character, and general fitness of the applicant warrant the  
14 belief that the business will be operated lawfully and fairly and within the provisions of this part;

15 (ii) the applicant has unencumbered assets of at least \$25,000 for each location;

16 (iii) the applicant has provided a sworn statement that the applicant will not in the future, directly or  
17 indirectly, use a criminal process to collect the payment of deferred deposit loans or any civil process to collect  
18 the payment of deferred deposit loans not generally available to creditors to collect on loans in default; and

19 (iv) other information that the department considers necessary has been provided.

20 (b) The department may not issue or renew a license if the criminal history of the employees of the  
21 applicant demonstrates any convictions involving fraud or financial dishonesty or if the department's findings show  
22 adverse civil judgments involving fraudulent or dishonest financial dealings.

23 (4) A license may not be issued for longer than 1 year. The license year must coincide with the calendar  
24 year, and the license fee for any period less than 6 months is ~~\$187.50~~ \$250.

25 (5) Each licensee shall post a bond in the amount of \$10,000 for each location. The bond must continue  
26 in effect for 2 years after the licensee ceases operation in the state. The bond must be available to pay damages  
27 and penalties to consumers harmed by any violation of this part.

28 (6) More than one place of business may not be maintained under the same license, but the department  
29 may issue more than one license to the same licensee upon compliance with the provisions of this section  
30 governing issuance of a single license."

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2 **Section 5.** Section 31-1-706, MCA, is amended to read:

3 **"31-1-706. License renewal fee.** (1) A person licensed under 31-1-705 shall pay, on or before  
4 December 1 of each year, a license renewal fee of ~~\$125~~ \$500 for each license that the person holds under this  
5 part.

6 (2) Failure to pay any yearly license renewal fee required by this section within the time prescribed will  
7 result in the automatic revocation of the license subject to renewal."

8

9 **Section 6.** Section 31-1-711, MCA, is amended to read:

10 **"31-1-711. ~~Annual examinations~~ Examinations -- fee.** (1) The department ~~shall~~ may conduct ~~annually~~  
11 an examination of each licensee's deferred deposit lending operation to ensure that the licensee is in compliance  
12 with the provisions of this part.

13 (2) (A) A licensee shall pay the department a fee in the amount of \$300 a day for each examiner required  
14 to conduct an ~~annual~~ examination.

15 (B) THE DEPARTMENT MAY CHARGE A LICENSEE FOR NO MORE THAN THREE EXAMINATIONS A YEAR UNDER THIS  
16 SECTION.

17 (3) A licensee shall make available to a department examiner the information required under 31-1-714  
18 or as required by rule.

19 ~~(4) Completion of an annual examination must, in the absence of the department's finding just cause to~~  
20 ~~revoke or suspend a license, constitute grounds for license renewal."~~

21

22 **Section 7.** Section 31-1-712, MCA, is amended to read:

23 **"31-1-712. License revocation or suspension -- restitution -- penalty.** (1) ~~If the~~ The department finds,  
24 ~~after due~~ shall provide a 10-day written notice of a proposed violation that includes a statement of the alleged  
25 violation and provision for a hearing or an opportunity for hearing, as provided in the Montana Administrative  
26 Procedure Act;. The notice must be based on a finding that any person, licensee, or officer, agent, employee, or  
27 representative, whether licensed or unlicensed, of the person or licensee has violated any of the provisions of  
28 this part, has failed to comply with the rules, regulations, instructions, or orders promulgated by the department,  
29 has failed or refused to make required reports to the department, or has furnished false information to the  
30 department, or has operated without a required license. the The department may impose a civil penalty not to

1 exceed \$1,000 for each violation AND NOT TO EXCEED \$5,000 FOR EACH ADMINISTRATIVE ACTION and may issue an  
 2 order revoking or suspending the right of the person or licensee, directly or through an officer, agent, employee,  
 3 or representative, to do business in this state as a licensee or to engage in the business of making deferred  
 4 deposit loans. In addition, the department may order restitution to borrowers and reimbursement for the  
 5 department's cost in bringing the administrative action.

6 (2) All notices, hearing schedules, and orders must be mailed to the person or licensee by certified mail  
 7 to the address for which the license was issued or, in the case of an unlicensed business, to the last-known  
 8 address of record.

9 ~~(2)~~(3) A revocation, suspension, or surrender of a license does not relieve the licensee from civil or  
 10 criminal liability for acts committed prior to the revocation, suspension, or surrender of the license.

11 (4) The department may reinstate any suspended or revoked license if there is not a fact or condition  
 12 existing at the time of reinstatement that would have justified the ~~department refusing~~ DEPARTMENT'S REFUSAL to  
 13 originally issue the license. If a license has been suspended or revoked for cause, an application may not be  
 14 made for the issuance of a new license or the reinstatement of a suspended or revoked license for a period of  
 15 6 months from the date of suspension or revocation.

16 ~~(5) All civil fines collected~~ PENALTIES COLLECTED PURSUANT TO THIS SECTION must be deposited in the state  
 17 general fund."

18

19 **Section 8.** Section 31-1-713, MCA, is amended to read:

20 **"31-1-713. Complaint procedure.** (1) The department shall maintain a list of licensees that is available  
 21 to interested persons and to the general public. The department shall also establish by rule a procedure under  
 22 which an aggrieved consumer or any member of the public may file a complaint against a licensee or an  
 23 unlicensed person who violates any provision of this part.

24 (2) The department may hold hearings, subject to the contested case provisions of Title 2, chapter 4,  
 25 part 6, upon the request of a party to the complaint, make findings of fact or conclusions of law, issue cease and  
 26 desist orders, refer the matter to the appropriate law enforcement agency for prosecution for a violation of this  
 27 part, seek injunctive or other relief in district court, or suspend or revoke a license granted under this part."

28

29 **Section 9.** Section 31-1-714, MCA, is amended to read:

30 **"31-1-714. Information and annual reports.** (1) Each licensee shall keep and use books, accounts,

1 and records that will enable the department to determine if the licensee is complying with the provisions of this  
 2 part and maintain any other records required by the department. The department is authorized to examine the  
 3 records at any reasonable time. The records must be kept for 2 years following the last entry on a loan and must  
 4 be kept according to generally accepted accounting procedures that include an examiner being able to review  
 5 the recordkeeping and reconcile each ~~consumer~~ deferred deposit loan with documentation maintained in the  
 6 consumer's loan file records.

7 (2) Each licensee shall file, on forms prescribed by the department, an annual report with the department  
 8 on or before March 31 for the 12-month period in the preceding year ending as of December 31. The report must  
 9 disclose in detail and under appropriate headings:

- 10 (a) the resources, assets, and liabilities of the licensee at the beginning and the end of the period;  
 11 (b) the income, expense, gain, loss, and balance sheets;  
 12 (c) the total number of deferred deposit loans made in the year ending as of December 31 of the previous  
 13 year, including:  
 14 (i) the number of individual consumers with 12 or fewer new deferred deposit loans; and  
 15 (ii) the number of individual consumers with 13 or more new deferred deposit loans;  
 16 (d) the average deferred deposit loan amount, average annual interest percentage rate, and average  
 17 deferred deposit loan term;  
 18 (e) the number of deferred deposit loans rescinded;  
 19 ~~(d)~~(f) the total number of deferred deposit loans outstanding as of December 31 of the previous year;  
 20 ~~(e)~~(g) the minimum and maximum amount of checks for which deposits were deferred in the year ending  
 21 as of December 31 of the previous year;  
 22 ~~(f)~~(h) the total number and dollar amount of returned checks, the total number and dollar amount of  
 23 checks recovered, and the total number and dollar amount of checks charged off during the year ending as of  
 24 December 31 of the previous year;  
 25 ~~(g)~~(i) the total number and dollar amount of agreements involving electronic transactions or deductions,  
 26 the total number and dollar amount of electronic deductions made by the licensee, and the total number and  
 27 dollar amount of electronic deductions for insufficient funds charged off during the year ending as of December  
 28 31 of the previous year; and  
 29 ~~(h)~~(j) verification that the licensee has not used a criminal process or caused a criminal process to be  
 30 used in the collection of any deferred deposit loans or used any civil process to collect the payment of deferred

1 deposit loans not generally available to creditors to collect on loans in default during the year ending as of  
2 December 31 of the previous year.

3 (3) A report must be verified by the oath or affirmation of the owner, manager, or president of the  
4 deferred deposit lender.

5 (4) (a) If a licensee conducts another business or is affiliated with other licensees under this part or if  
6 any other situation exists under which allocations of expense are necessary, the licensee shall make the  
7 allocation according to appropriate and reasonable accounting principles as approved by the department.

8 (b) Information about any other business conducted on the same premises where deferred deposit loans  
9 are made must be provided as required by the department.

10 (5) Each licensee shall file a copy of the disclosure documents described in 31-1-721 with the  
11 department prior to the date of commencement of business at each location, at the time any changes are made  
12 to the documents, and annually upon renewal of the license. These documents must be available to interested  
13 parties and to the general public through the department."  
14

15 **Section 10.** Section 31-1-715, MCA, is amended to read:

16 **"31-1-715. Loan requirements -- right of rescission -- arbitration -- completion of transaction.** (1)  
17 Each A deferred deposit loan may not have a term that exceeds 31 days.

18 (2) The amount of the deferred deposit loan, exclusive of the fee allowed in 31-1-722(2), may not exceed  
19 \$300.

20 (3) The minimum amount of a deferred deposit loan is \$50.

21 (4) The check written by the consumer in a deferred deposit loan must be made payable to the licensee.

22 (5) (a) The loan agreement must contain a provision that the consumer may rescind the transaction if,  
23 by 5 p.m. of the licensee's first business day following the day that the loan was executed, the consumer provides  
24 the licensee with cash or certified funds equaling 100% of the amount loaned to the consumer.

25 (b) A licensee may not charge a consumer any fee or interest if the consumer rescinds the loan as  
26 provided in subsection (5)(a).

27 (c) Except as provided in subsection (5)(a), a consumer does not have a right to rescind the loan unless  
28 the licensee agrees to the rescission.

29 (6) (a) A loan agreement may not contain a mandatory arbitration clause that is oppressive,  
30 unconscionable, unfair, or in substantial derogation of a consumer's rights.

1 (b) A mandatory arbitration clause that complies with the applicable standards of the American arbitration  
2 association must be presumed to not violate the provisions of subsection (6)(a).

3 (7) Only the licensee may make an electronic deduction from the consumer's account. The licensee shall  
4 ensure that information obtained from the consumer about the consumer's account remains confidential.

5 (8) The licensee shall provide the consumer, or each consumer if there is more than one, with a copy  
6 of the loan documents described in 31-1-721 upon consummation of the loan.

7 (9) The holder or assignee of any check written by a consumer in connection with a deferred deposit loan  
8 takes the instrument subject to all claims and defenses of the consumer.

9 (10) A deferred deposit loan transaction is completed when the licensee receives payment in full from  
10 the consumer in cash or, if payment is made by check or electronic transfer from the consumer's account, when  
11 the check or electronic transfer is debited to the consumer's account by the consumer's financial institution. Once  
12 a deferred deposit loan transaction is complete, a licensee may enter into a new deferred deposit loan with the  
13 consumer. Deferred deposit loans may not be renewed or extended."

14

15 **Section 11.** Section 31-1-721, MCA, is amended to read:

16 **"31-1-721. Required disclosures -- loan agreement.** (1) Before entering into a deferred deposit loan,  
17 the licensee shall deliver to the consumer a pamphlet prepared by or at the direction of the department that:

18 (a) explains, in simple language, all of the consumer's rights and responsibilities in a deferred deposit  
19 loan transaction;

20 (b) includes a telephone number to the department's office that handles concerns or complaints by  
21 consumers; and

22 (c) informs consumers that the department's office can provide information about whether a lender is  
23 licensed and other legally available information.

24 (2) Licensees shall provide consumers with a written agreement on a form specified or approved by the  
25 department that can be kept by the consumer, which must include the following information:

26 (a) the name, address, and phone number of the licensee making the deferred deposit loan and the  
27 initials or other written means of identifying the individual employee who signs the agreement on behalf of the  
28 licensee;

29 (b) the name, address, and phone number of the consumer obtaining the deferred deposit loan;

30 (c) ~~an itemization of the fees and interest charges to be paid by the consumer~~ all disclosures required

1 by the federal Truth in Lending Act, 15 U.S.C. 1601, et seq.;

2 (d) a clear description of the consumer's payment obligations under the loan; and

3 (e) in a manner that is more conspicuous than the other information provided in the loan document and  
4 that is in at least 14-point bold typeface, a statement that "you cannot be prosecuted in criminal court for collection  
5 of this loan". The statement must be located immediately preceding the signature of the consumer."  
6

7 **Section 12.** Section 31-1-723, MCA, is amended to read:

8 **"31-1-723. Prohibited acts.** A licensee making deferred deposit loans may not commit, or have  
9 committed on behalf of the licensee, any of the following prohibited acts:

10 (1) engaging in the business of deferred deposit lending unless the department has first issued a valid  
11 license;

12 (2) threatening to use or using a criminal process in this or any other state to collect on the loan made  
13 to a consumer in this state or any civil process to collect the payment of deferred deposit loans not generally  
14 available to creditors to collect on loans in default;

15 (3) altering the date or any other information on a check received from a consumer;

16 (4) altering or changing the date upon which the licensee and consumer agreed to make any electronic  
17 deductions from the consumer's account unless the consumer agrees in writing to the change;

18 (5) making any false, misleading, or deceptive representation to a financial institution relating to a  
19 consumer who has agreed to provide payment for a loan through an electronic deduction;

20 (6) using any device or agreement that would have the effect of charging or collecting more fees,  
21 charges, or interest than those allowed by this part, including but not limited to entering into a different type of  
22 transaction or renewing or rolling over a loan with the consumer;

23 (7) engaging in unfair, deceptive, or fraudulent practices in the making or collection of a deferred deposit  
24 loan;

25 (8) entering into a deferred deposit loan with a consumer that is unconscionable. In determining whether  
26 a deferred deposit loan transaction is unconscionable, consideration must be given to, but is not limited to,  
27 whether the amount of the loan exceeds 25% of the consumer's monthly net income.

28 (9) charging to cash a check representing the proceeds of the deferred deposit loan;

29 (10) charging to perform an electronic deduction or transaction to obtain the proceeds of the deferred  
30 deposit loan;

- 1 (11) using or attempting to use the check provided by the consumer in a deferred deposit loan as security  
2 for purposes of any state or federal law;
- 3 (12) using or attempting to use the consumer's authorization to deduct the amount set forth in the loan  
4 agreement or any other information obtained from the consumer or the consumer's financial institution for any  
5 purpose other than to collect the proceeds of the deferred deposit loan;
- 6 (13) accepting payment of the deferred deposit loan through the proceeds of another deferred deposit  
7 loan ~~provided by the same licensee or any affiliate;~~
- 8 (14) ~~making a deferred deposit loan that, when combined with another outstanding deferred deposit loan  
9 owed to the licensee, exclusive of the fee allowed in 31-1-722(2), exceeds a total of \$300 when combining the  
10 face amount of the checks written in connection with each loan. Regardless of the total of the loans, a licensee  
11 may not make a loan to a consumer who has two or more deferred deposit loans outstanding with the licensee.  
12 entering into a deferred deposit loan with a consumer who has an outstanding deferred deposit loan;~~
- 13 (15) renewing, repaying, refinancing, or consolidating a deferred deposit loan with the proceeds of  
14 another deferred deposit loan made to the same consumer. However, a licensee may without charge extend the  
15 term of the loan beyond the due date.
- 16 (16) accepting any collateral for a deferred deposit loan;
- 17 (17) charging any interest, fees, or charges other than those specifically authorized by this part, including  
18 but not limited to charges for insurance;
- 19 (18) threatening to take any action against a consumer that is prohibited by this part or making any  
20 misleading or deceptive statements regarding the deferred deposit loan;
- 21 (19) making a misrepresentation of a material fact by an applicant in obtaining or attempting to obtain a  
22 license;
- 23 (20) including any of the following provisions in the loan agreement required by 31-1-721:
- 24 (a) a hold harmless clause;
- 25 (b) a confession of judgment clause;
- 26 (c) a waiver of the right to a jury trial, if applicable, in any action brought by or against a consumer;
- 27 (d) any assignment of or order for payment of wages or other compensation for services;
- 28 (e) a provision in which the consumer agrees not to assert any claim or defense arising out of the  
29 contract; or
- 30 (f) a waiver of any provision of this part."

1  
2           **NEW SECTION. Section 13. Investigations by department -- subpoenas -- oaths -- examination**  
3 **of witnesses and evidence.** (1) The department may investigate any matter, upon complaint or otherwise, if  
4 it appears that a person has engaged in or offered to engage in any act or practice that is in violation of any  
5 provision of this part or any rule adopted or order issued by the department pursuant to this part.

6           (2) The department may issue subpoenas to compel the attendance of witnesses and the production  
7 of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction,  
8 control, or supervision pertaining to this part. The department may administer oaths and affirmations to a person  
9 whose testimony is required.

10           (3) If a person refuses to obey a subpoena or to give testimony or produce evidence as required by the  
11 subpoena, a judge of the district court of Lewis and Clark County or the county in which the licensed premises  
12 are located may, upon application and proof of the refusal, issue a subpoena or subpoena duces tecum for the  
13 witness to appear before the department to give testimony and produce evidence as may be required. The clerk  
14 of court shall then issue the subpoena, as directed, under the seal of the court, requiring the person to whom it  
15 is directed to appear at the time and place designated in the subpoena.

16           (4) If a person served with a subpoena refuses to obey the subpoena or to give testimony or produce  
17 evidence as required by the subpoena, the department may proceed under the contempt provisions of Title 3,  
18 chapter 1, part 5.

19           (5) Failure to comply with a court-ordered subpoena is punishable pursuant to 45-7-309.

20  
21           **NEW SECTION. Section 14. Cease and desist orders.** (1) If it appears to the department that a  
22 person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this  
23 part or any rule adopted or order issued by the department pursuant to this part, the department may issue an  
24 order directing the person to cease and desist from continuing the act or practice after reasonable notice and  
25 opportunity for a hearing. THE ORDER MAY APPLY ONLY TO THE ALLEGED ACT OR PRACTICE CONSTITUTING A VIOLATION  
26 OF THIS CHAPTER. The department may issue a temporary order pending the hearing that:

27           (a) remains in effect until 10 days after the hearings examiner issues proposed findings of fact and  
28 conclusions of law and a proposed order; or

29           (b) becomes final if the person to whom notice is addressed does not request a hearing within 10 days  
30 after receipt of the notice.

1 (2) A violation of an order issued pursuant to this section is subject to the penalty provisions of this part.

2

3 **NEW SECTION. Section 15. Injunctions -- receivers.** (1) Whenever the department has reason to  
4 believe that a person is using, has used, or is about to knowingly use any method, act, or practice that violates  
5 any provision of this part or any rule adopted or order issued by the department pursuant to this part, the  
6 department, upon determining that proceeding would be in the public interest, may bring an action in the name  
7 of the state against the person to restrain by temporary or permanent injunction or temporary restraining order  
8 the use of the unlawful method, act, or practice.

9 (2) The notice for an action pursuant to subsection (1) must state generally the relief sought and be  
10 served at least 20 days before the hearing of the action in which the relief sought is a temporary or permanent  
11 injunction. The notice for a temporary restraining order is governed by 27-19-315.

12 (3) An action under this section may be brought in the district court in the county in which a person  
13 resides or has the person's principal place of business or in the district court of Lewis and Clark County IF THE  
14 PERSON IS NOT A RESIDENT OF THIS STATE OR DOES NOT MAINTAIN A PLACE OF BUSINESS IN THIS STATE.

15 (4) A district court may issue temporary or permanent injunctions or temporary restraining orders to  
16 restrain and prevent violations of this part, and an injunction must be issued without bond to the department. If  
17 the department is successful in obtaining an injunction or restraining order under this section, the department is  
18 entitled to an award of reasonable attorney fees and costs.

19 (5) In addition to all other means provided by law for the enforcement of a restraining order or injunction,  
20 the court in which the action is brought may impound and appoint a receiver for the property and business of the  
21 defendant, including books, papers, documents, or records pertaining to the property or business, or as much  
22 of the property or business as the court considers reasonably necessary to prevent violations of this part. The  
23 receiver, when appointed and qualified, has the powers and duties as to custody, collection, administration,  
24 winding up, and liquidation of the property and business that are conferred upon the receiver by the court.

25

26 **NEW SECTION. Section 16. Codification instruction.** [Sections 13 through 15] are intended to be  
27 codified as an integral part of Title 31, chapter 1, part 7, and the provisions of Title 31, chapter 1, part 7, apply  
28 to [sections 13 through 15].

29 - END -